

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 78 be amended to read as follows:

1 Page 2, delete lines 12 through 35 and insert "company or
2 association ~~who shall fail that fails~~ to make payment of wages to ~~any~~
3 ~~such an~~ employee as provided in section 1 of this chapter shall, as
4 liquidated damages for ~~such the~~ failure, pay to ~~such the~~ employee for
5 each day that the amount due to ~~him the employee~~ remains unpaid ~~an~~
6 **additional** ten percent (10%) ~~of on~~ the amount due to ~~him the employee~~,
7 ~~in addition thereto~~, not exceeding double the amount of wages due, and
8 ~~said the~~ damages may be recovered in ~~any a~~ court having jurisdiction of a
9 suit to recover the amount due to ~~such the~~ employee, and in any suit so
10 brought to recover ~~said the~~ wages or the liquidated damages for
11 nonpayment thereof, or both, the court shall tax and assess as costs in said
12 case a reasonable fee for the plaintiff's attorney or attorneys.

13 **(b) For purposes of this subsection, "highly compensation**
14 **employee" means an employee who earns more than one hundred**
15 **thousand dollars (\$100,00) annually. An employer shall not be subject**
16 **to the penalty set forth in subsection (a) with respect to a highly**
17 **compensated employee if the employer:**

18 **(1) is able to show by clear and convincing evidence**
19 **that the act or omission that gave rise to the alleged**
20 **violation of section 1 of this chapter was made in**
21 **good faith; and**

22 **(2) had reasonable grounds to believe that its actions**
23 **were lawful."**

24 Page 2, line 37, after "classified" insert "**as highly compensated**
25 **as earning more than one hundred thousand dollars (\$100,000)**
26 **annually, employees who are classified"**."

(Reference is to SB 78 as printed January 19, 2005.)

Senator SIMPSON

